



# *COMMONWEALTH of VIRGINIA*

*DEPARTMENT OF ENVIRONMENTAL QUALITY*

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## **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO**

**INGENCO Wholesale Power, LLC.**

**Registration Nos. 51083 (Dinwiddie) & 51201 (Rockville)**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and INGENCO Wholesale Power, LLC (INGENCO) for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations at INGENCO's Dinwiddie and Rockville facilities.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Dinwiddie" means INGENCO's Dinwiddie facility, an electricity and heat production plant located at 25505 Weakley Rd, Petersburg, Virginia, with Registration No. 51083.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "FCE" means an on-site Full Compliance Evaluation performed by DEQ staff.

7. "INGENCO" means INGENCO Wholesale Power, LLC., a limited liability corporation authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. INGENCO is a "person" within the meaning of Va. Code § 10.1-1300.
8. "MACT" means the National Emission Standards for Hazardous Air Pollutants, a portion of the Federal regulations located at 40 CFR 63, governing the emission and control of hazardous air pollutants.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
11. "PCE" means a partial compliance evaluation by DEQ staff.
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Permit 1" means the Title V permit to operate an electrical power generation plant at INGENCO's Dinwiddie Facility, which was last amended under the Virginia Air Pollution Control Law and Regulations, and issued to INGENCO on December 14, 2017 (No. 51083). INGENCO was previously issued a Title V permit on July 6, 2012 that expired on July 6, 2017. The expired permit was replaced by Permit 1.
14. "Permit 2" means the Title V permit to operate an electrical power generation plant at INGENCO's Rockville Facility, which was last amended under the Virginia Air Pollution Control Law and Regulations, and issued to INGENCO on December 14, 2017 (No. 51201).
15. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
16. "Rockville" means INGENCO's Rockville facility, an electricity and heat production plant located at 2369 Lanier Rd, Rockville, Virginia, with Registration No. 51201.
17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.
19. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. INGENCO owns and operates both the Dinwiddie and Rockville facilities. Generation of electricity is the primary purpose of the facilities.

#### **Dinwiddie Facility, Registration No.:51083**

2. Dinwiddie is the subject of Permit 1, which allows the operation of the electrical power generation facility.
3. On December 21, 2018, INGENCO submitted i) revised and amended SEMI ANNUAL COMPLIANCE CERTIFICATIONS (SAMRs) for the following semi-annual periods: the first and second half of calendar year 2014, first half of calendar year 2015, first and second half of calendar year 2016, first and second half of calendar year 2017 and the first half of calendar year 2018; and ii) revised and amended ANNUAL COMPLIANCE CERTIFICATION (ACCs) resubmitted for the following calendar years: 2014, 2015, 2016, 2017 and 2018. On March 5, 2019, DEQ staff and reviewed these certifications. INGENCO admits that its original submittals incorrectly reported continuous compliance for these time periods, however, INGENCO represents that the revised and amended certifications were the result of a self-directed internal audit intended to review information submittals and identify process deficiencies.
4. Permit condition VII.C.3 of the July 6, 2012 Title V permit and Condition 49 of Permit 1 both contain the following language:, “SEMI ANNUAL COMPLIANCE CERTIFICATION - The permittee shall submit the results of monitoring contained in any applicable requirement to the Department no later than March 1 and September 1 of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:  
...  
b. All deviations from permit requirements. For purposes of this permit, deviations include, but are not limited to: (1) Exceedance of emissions limitations or operational restrictions; (2) Excursions from control device operating parameter requirements, as documented by continuous emission monitoring, periodic monitoring, or Compliance Assurance Monitoring (CAM) which indicates an exceedance of emission limitations or operational restrictions; or, (3) Failure to meet monitoring, recordkeeping, or reporting requirements contained in this permit. ...(9 VAC 5-80-110 F).”
5. Condition VII.D. of the July 6, 2012 Title V permit and Condition 50 of Permit 1 both contain the following language: “ANNUAL COMPLIANCE CERTIFICATION - Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to EPA and the Department no later than March 1 each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices for the period ending December 31. The compliance certification shall comply with such additional requirements that may be



specified pursuant to 114(a)(3) and 504(b) of the federal Clean Air Act. The permittee shall maintain a copy of the certification for five (5) years after submittal of the certification. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include: ... 2. The identification of each term or condition of the permit that is the basis of the certification; 3. The compliance status; 4. Whether compliance was continuous or intermittent, and if not continuous, documentation of each incident of non-compliance; 5. Consistent with subsection 9 VAC 5-80-110 E, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period; 6. Such other facts as the permit may require to determine the compliance status of the source; ...(9 VAC 5-80-110 K.5).”

6. On March 12, 2019, DEQ staff performed an on-site FCE of Dinwiddie. Staff also reviewed supporting documentation submitted by INGENCO after the evaluation date. The following paragraphs include Staff observations of the violations noted and the correlating legal requirements.
7. Six differential pressure gauges, recommended and provided by the manufacturer of the oxidation catalyst, were not able to generate a continuous and accurate reading for each oxidation catalyst. INGENCO reported that the gauges should be reading near 4 inches water column (WC), but the differential pressure gauge scales only measured up to 3.5 inches WC. Readings for engine banks E and F gauges were observed to be above 3.5 inches WC and beyond the measurement scale of the gauges. INGENCO replaced the inadequate differential pressure gauges with gauges designed to accurately measure the differential pressure. INGENCO represents that the gauges are not working properly and accurate readings are being obtained in compliance with Condition 17 of Permit 1.
8. Condition 17 of Permit 1 states, “Fuel Burning Equipment Requirements – Monitoring - The oxidation catalyst shall be equipped with devices to continuously measure the differential pressure drop across each oxidation catalyst. Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer’s written requirements or recommendations. Each monitoring device shall be provided with adequate access for inspection and shall be in operation when the control devices are operating. (9 VAC 5-80-110).”
9. Fifteen-minute monitoring exhaust temperature records were reviewed from January 2018 through March 2019. Records from February 27, 2015 through January 2, 2018 were not found in the paper records on-site. INGENCO submitted records from 2017 through 2019 that were extracted from its computer monitoring data on April 15, 2019. The following 27 operational days were missing or incomplete for each of the two operational areas of Dinwiddie, plants (1 & 2), in the records submitted or reported by INGENCO:
  1. Dinwiddie 1 Daily Records: January 5, 6, 7, 8, 18; February 27; May 16; June 4, 13, 15, 2018.



2. Dinwiddie 2 Daily Records: January 2, 3, 4, 5, 6, 7, 8; May 9, 10; June 4, 6, 11, 13, 2018.
  3. Dinwiddie 2 SAMR Resubmittal: October 10, 2017, December 28, 29, 30, 2017.
  4. Dinwiddie 1 Computer Records: Exhaust temperatures for generator sets 2 and 3 read negative values from February 22, 2017 through March 13, 2019; on July 6, 2017 exhaust temperatures read 1127 °F to 1949 °F from 7:25 am until 8:00 am; No records were available from January 18, 2018 through June 15, 2018.
  5. Dinwiddie 2 Computer Records: Records did not include time of individual readings from 2017 to 2019. The Computer Monitoring Data for Dinwiddie 2 contained readings ranging from -32,426 °F to 32,025 °F.
10. Condition 18 of Permit 1 states, “Fuel Burning Equipment Requirements – Monitoring - The oxidation catalyst shall be equipped with devices to continuously measure and record the inlet temperature to the catalyst bed at a minimum frequency of once every fifteen minutes during the operation of each engine group. As approved by the Director, Piedmont Regional Office, compliance with this requirement may be achieved by continuously measuring and recording the engine exhaust temperature at the minimum frequency described above and, as confirmation, measuring and recording the inlet temperature to the catalyst bed once per shift. The information shall be correlated to run date, engine load/kilowatt output, and engine operating hours. Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations. Each monitoring device shall be provided with adequate access for inspection and shall be in operation when the oxidation catalysts are operating. (9 VAC 5-80-110).”
11. Condition 24.1. of Permit 1 states in part, “Fuel Burning Equipment Requirements – Recordkeeping - The permittee shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to: . . . 1. Operation and control device monitoring records for each engine group equipped with an oxidation catalyst (Ref. Nos. E1-E40). This includes records of the catalyst bed temperatures.  
These records shall be available on site for inspection by the Department and shall be current for the most recent five years. (9 VAC 5-80-110 and Condition 20 of the minor NSR permit dated December 4, 2013).”
12. INGENCO did not measure fuel consumption for every day of operation. The records from January 2018 through March 2019 were reviewed during the FCE. On certain of these days, Dinwiddie operated for brief periods in order to perform maintenance. Also, the records from February 27, 2015 through January 2, 2018 were not found in the paper records on-site. The following 30 operational days were missing or incomplete for each of the plants from the records submitted in response to the FCE or in semi-annual reports by INGENCO:
1. Dinwiddie 1: July 14, 20, 2016; July 6, 2017; January 3, 8; and June 4, 5, 6, 13, 15, 2018.

2. Dinwiddie 2: April 19; July 6, 2017; January 2, 3, 4, 5, 6, 7, 8; May 9, 10; June 4, 6, 11, 13, 2018; February 27; and March 7, 12, 13, 15, 2019.
13. Condition 19 of Permit 1 states, "Fuel Burning Equipment Requirements – Monitoring - The monitoring devices used to measure natural gas, distillate oil, biodiesel and No.4 fuel oil consumption shall be observed by the permittee after each period of continuous operation when using any form of liquid fuel and then again once the engines have ceased operation. In addition, when the engines are operated in dual-fuel mode, the monitoring devices shall be read each time natural gas is used at the facility and then again whenever the engines are returned to single fuel operations. The permittee shall keep a daily log of the observations from each of the monitoring devices, to include each set of readings that define each period of dual-fuel operations. (9 VAC 5-80-110 and Condition 11 of the minor NSR permit dated December 4, 2013)."
14. Condition 24.b. of Permit 1 states in part, "Fuel Burning Equipment Requirements – Recordkeeping - The permittee shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to: ... b. Daily records of fuel consumption for every period of operation to verify compliance with Condition Nos. 5, 9 and 10; ... These records shall be available on site for inspection by the Department and shall be current for the most recent five years. (9 VAC 5-80-110 and Condition 20 of the minor NSR permit dated December 4, 2013)."
15. Condition III.B.3. of the July 6, 2012 Title V Permit states in part, "The monitoring devices used to measure natural gas, distillate oil and No.4 fuel oil consumption shall be observed by the permittee after each period of continuous operation when using any form of liquid fuel and then again once the engines have ceased operation. In addition, when the engines are operated in dual-fuel mode, the monitoring devices shall be read each time natural gas is used at the facility and then again whenever the engines are returned to single fuel operations. The permittee shall keep a daily log of the observations from each of the monitoring devices, to include each set of readings that define each period of dual-fuel operations."
16. Condition III.C.2. of the July 6, 2012 Title V Permit states in part, "The facility shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to: ... b. Daily records of fuel consumption for every period of operation to verify compliance with Condition numbers III.A.6, III.A.9 and III.A.10; ... These records shall be available on site for inspection by the Department and shall be current for the most recent five years. (9 VAC 5-80-110 and Condition 20 of the minor NSR permit dated March 30, 2012)."
17. Records of inlet charge air temperature were not maintained every day. These records were reviewed from January 2018 through March 2019. Also, the records from February

27, 2015 through January 2, 2018 were not found in the paper records on-site. INGENCO submitted records from 2017 through 2019 extracted from its computer monitoring data on April 15, 2019. The following 18 operational days were missing or incomplete for each of the plants:

1. Dinwiddie 1 Daily Records: January 4, 2018; February 27; and March 15, 2019.
2. Dinwiddie 2 Daily Records: January 2, 3, 4, 5, 6, 7, 8, 2018; May 9, 10; June 4, 5, 6, 11, 13, 2018; and January 31, 2019.
3. Dinwiddie 2 Computer Records: Records did not include times of readings from 2017 through 2019.

18. Condition 20 of Permit 1 states, “Fuel Burning Equipment Requirements – Monitoring - The monitoring devices used to measure inlet charge-air temperature shall be observed by the permittee with a frequency of not less than hourly whenever the engines are operating. The permittee shall keep a log of the temperature observations from the monitoring devices including the time the observation was recorded. (9 VAC 5-80-110 and Condition 12 of the minor NSR permit dated December 4, 2013).”

19. Condition 24.c. of Permit 1 states in part, “Fuel Burning Equipment Requirements – Recordkeeping - The permittee shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to: ... c. Hourly records of engine inlet charge-air temperature readings to verify compliance with Condition 3; ... These records shall be available on site for inspection by the Department and shall be current for the most recent five years. (9 VAC 5-80-110 and Condition 20 of the minor NSR permit dated December 4, 2013).”

20. Records of the differential pressure gauge monitoring logs were not complete for all days of operation. Also, records from February 27, 2015 through January 2, 2018 were not found in the paper records on-site. In addition to the missing records, the following 30 operational days were missing or incomplete for each of the plants:

1. Dinwiddie 1: January 5, 7, 8, 18, 2018; May 16, 2018; June 4, 6, 13, 15, 2018; February 27, 2019.
2. Dinwiddie 2: October 10, 2017; December 28, 29, 30, 2017; January 2, 3, 4, 5, 6, 7, 8, 2018; May 9, 10, 2018; June 4, 6, 11, 13, 2018; February 27, 2019; March 7, 13, 2019.

INGENCO replaced the inadequate differential pressure gauges that were recommended by the manufacturer with gauges designed to accurately measure the differential pressure (see paragraph 7 above).

21. Condition 21 of Permit 1 states, “21. Fuel Burning Equipment Requirements – Monitoring - The monitoring devices used to measure the catalysts shall be observed by the permittee with a frequency of not less than once per shift. The permittee shall keep a log of the observations including the time the observation was recorded, or continuously record measurements from each of the control monitoring devices. (9 VAC 5-80-110).”



22. Condition 24 of Permit 1 states in part, “Fuel Burning Equipment Requirements – Recordkeeping - The permittee shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to: ... k. Log of observations or records of measurements from the pressure drop monitoring device on each catalyst; l. Operation and control device monitoring records for each engine group equipped with an oxidation catalyst (Ref. Nos. E1-E40). This includes records of the catalyst bed temperatures. These records shall be available on site for inspection by the Department and shall be current for the most recent five years. (9 VAC 5-80-110 and Condition 20 of the minor NSR permit dated December 4, 2013).”
23. INGENCO did not conduct observations of visible emissions every month of operation. Monthly Visible Emissions Evaluation (VEE) records were reviewed on-site for January 2018 through March 2019. Records from February 27, 2015 through January 2, 2018 were not found in the paper records on-site. In addition, the following 19 operational months were either missing or contained incomplete information from the records submitted in response to the FCE and/or in semi-annual reports by INGENCO:
1. Dinwiddie 1: May, June and July 2014; February 2015; July 2016; April and July 2017; January and May 2018.
  2. Dinwiddie 2: May, June and July 2014; February 2015; May and June 2016; April, October and December, 2017; and May 2018
24. Condition 22 of Permit 1 states, “Fuel Burning Equipment Requirements – Monitoring - Once per month, the permittee shall conduct an observation of the presence of visible emissions from the operating 34 engines (E1-E34). If visible emissions are observed, the permittee shall take timely corrective action such that the units resume operation with no visible emissions, or perform a visible emissions evaluation (VEE) in accordance with 40 CFR 60, Appendix A, Method 9 to assure visible emissions from any of the 34 engines (E1-E34) does not exceed 10% opacity whenever the engines are operated in a single fuel mode, except during one six-minute period in any one hour in which visible emissions shall not exceed 20% opacity and visible emissions from the 34 dual-fuel diesel engines (E1-E34) stacks (S1-S7) shall not exceed 20% opacity whenever the engines are operated in a dual fuel mode except during one six-minute period in any one hour in which visible emissions shall not exceed 30.0% opacity. The VEE shall be conducted for a minimum of six minutes. If any of the observations exceeds 10% opacity, the VEE shall be conducted for sixty minutes. ... (9 VAC 5-80-110 and Condition 24 of the minor NSR permit dated December 4, 2013).”
25. Condition 24.f. of Permit 1 states in part, “Fuel Burning Equipment Requirements – Recordkeeping - The permittee shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to: ... f. Results of all stack tests, visible emissions evaluations, monthly visible emissions evaluations log and performance evaluations; ... These records shall be available on site for inspection by the Department and shall be

current for the most recent five years. (9 VAC 5-80-110 and Condition 20 of the minor NSR permit dated December 4, 2013).”

26. Condition 29 of Permit 1 states, “Fuel Burning Equipment Requirements – Testing – Once per month, the permittee shall conduct an observation of the presence of visible emissions from the operating 34 engines (E1-34). If visible emissions are observed, the permittee shall take timely corrective action such that the units resume operation with no visible emissions, or perform a visible emissions evaluation (VEE) in accordance with 40 CFR 60, Appendix A, Method 9 to assure visible emissions from any of the 34 engines (E1-34) does not exceed 10% opacity whenever the engines are operated in a single fuel mode, except during one six-minute period in any one hour in which visible emissions shall not exceed 20% opacity and visible emissions from the 34 dual-fuel diesel engines (E1-E34) stacks (S1-S7) shall not exceed 20% opacity whenever the engines are operated in a dual fuel mode except during one six-minute period in any one hour in which visible emissions shall not exceed 30.0% opacity. The VEE shall be conducted for a minimum of six minutes. If any of the observation exceeds 10% opacity, the VEE shall be conducted for sixty minutes. ... (9 VAC 5-80-110 and Condition 24 of the minor NSR permit dated December 4, 2013)”
27. Condition III.B.5. of the July 6, 2012 Title V Permit states, “Once per month, the permittee shall conduct an observation of the presence of visible emissions from the operating 34 engines (E1-E34). If visible emissions are observed, the permittee shall take timely corrective action such that the units resume operation with no visible emissions, or perform a visible emissions evaluation (VEE) in accordance with 40 CFR 60, Appendix A, Method 9 to assure visible emissions from any of the 34 engines (E1-E34) does not exceed 10% opacity whenever the engines are operated in a single fuel mode, except during one six-minute period in any one hour in which visible emissions shall not exceed 20% opacity and visible emissions from the 34 dual-fuel diesel engines (E1-E34) stacks (S1-S7) shall not exceed 20% opacity whenever the engines are operated in a dual fuel mode except during one six-minute period in any one hour in which visible emissions shall not exceed 30.0% opacity. The VEE shall be conducted for a minimum of six minutes. If any of the observations exceeds 10% opacity, the VEE shall be conducted for sixty minutes. ... (9 VAC 5-80-110 and Condition 24 of the minor NSR permit dated March 30, 2012).”
28. Condition III.C.2. of the July 6, 2012 Title V Permit states in part, “The facility shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to: ... f. Results of all stack tests, visible emissions evaluations (VEE), monthly visible emissions evaluations log, and performance evaluations; ... (9 VAC 5-80-110 and Condition 20 of the minor NSR permit dated March 30, 2012).”
29. Records for environmental training did not provide a detailed method for recording daily information related to process and control equipment. In addition, INGENCO reported



that employees performing VEEs were not currently certified for U.S. Environmental Protection Agency (EPA) method 9.

30. Condition 37. of Permit 1 states in part, "Facility Wide Conditions – Limitations - The permittee shall take the following measures in order to minimize the duration and frequency of excess emissions, with respect to air pollution control equipment, monitoring devices, and process equipment which affect such emissions: ... c. Have available written operating procedures for equipment. These procedures shall be based on the manufacturer's recommendations, at a minimum. d. Train operators in the proper operation of all such equipment and familiarize the operators with the written operating procedures. The permittee shall maintain records of the training provided including the names of trainees, the date of training and the nature of the training. Records of maintenance and training shall be maintained on site for a period of five years and shall be made available to DEQ personnel upon request. (9 VAC 5-80-110 and Condition 32 of the minor NSR permit dated December 4, 2013)."
31. There were several dates where INGENCO's daily records conflicted with its operational records. These daily records included operational data when the facility was not operating. There were several dates where INGENCO's records included inconsistent or incorrect dates and/or data within its daily records (i.e. January 18<sup>th</sup> operational records shows one hour operated at 10am; the January 18<sup>th</sup> daily records include inlet-charge air temperature data dated January 3, 2018 from 8am to 1pm.). Inconsistent records were noted on the following dates:
1. Dinwiddie 1: January 18, June 4, 2018 and February 27, 2019 Daily Records.
  2. Dinwiddie 2: Computer records did not include the time for each reading.
32. Condition 47 of Permit 1 states, "General Conditions – Recordkeeping and Reporting - All records of monitoring information maintained to demonstrate compliance with the terms and conditions of this permit shall contain, where applicable, the following:
1. The date, place as defined in the permit, and time of sampling or measurements.
  2. The date(s) analyses were performed.
  3. The company or entity that performed the analyses.
  4. The analytical techniques or methods used.
  5. The results of such analyses.
  6. The operating conditions existing at the time of sampling or measurement.
- (9 VAC 5-80-110)."
33. INGENO resubmitted their first half 2018 SAMR (Reviewed on March 5, 2019 by DEQ) to self-report several deviations; however, review of INGENCO's records (condition 24) indicates that there were additional deviations which were not reported. These were noted on the following dates:
1. Condition 24.c. *See* citation in paragraph 19
    - i. Dinwiddie 1: January 4, 2018
    - ii. Dinwiddie 2: January 2, 3, 4, 5, 6, 7, 8, May 9, 10, and June 4, 5, 6, 11, 13, 2018.
  2. Condition 24.k. *See* citation in paragraph 22



- i. Dinwiddie 1: January 18, 2018
    - ii. Dinwiddie 2: June 6, 2018
  3. Condition 24.1. *See* citation in paragraph 11
    - i. Dinwiddie 1: January 18, 2018
    - ii. Dinwiddie 2: June 6, 2018
34. See Condition 49 of Permit 1 cited at Paragraph C.4. of this order for relevant requirement.
35. Daily records, from February 27, 2015 through January 2, 2018, were not available for review on-site. Deficiencies noted with monitoring, training and record-keeping in this and other paragraphs, indicates that INGENCO cannot ensure that its Facility is being operated in a manner consistent with air pollution control practices for minimizing emissions. INGENCO represent that those deficiencies have been addressed to ensure compliance with all Permit Conditions.
36. Condition 48 of Permit 1 states, “General Conditions – Recordkeeping and Reporting - Records of all monitoring data and support information shall be retained for at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. (9 VAC 5-80-110).”
37. Condition 62 of Permit 1 states, “General Conditions - Startup, Shutdown, and Malfunction -At all times, including periods of startup, shutdown, and soot blowing, and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. (9 VAC 5-80-110 and 9 VAC 5-50-20 E).”
38. On May 6, 2019, DEQ issued Notice of Violation No. APRO001194-001 to INGENCO for the violations noted in paragraphs C.3. through C.37. On June 24, 2019, INGENCO submitted training records for Dinwiddie staff and the March 2019 VEE certification date for the Dinwiddie site manager. These corrective measures resolve certain violations noted in paragraph C.29.

**Rockville Facility, Registration No. 51201**

39. Rockville is the subject of Permit 2, which allows the operation of the electrical power generation facility.
40. On June 6, 2018, DEQ staff performed an on-site FCE at Rockville. Staff also performed reviews of updated compliance documentation submitted by INGENCO. The following

paragraphs include Staff observations of the violations noted and the correlating legal requirements.

41. INGENCO did not provide records for equipment maintenance and noted that proper maintenance was not performed on engines associated with stacks C and F.
42. Condition 4 of Permit 2 states, "Fuel Burning Equipment Requirements – Limitations - Carbon Monoxide, particulate matter and volatile organic compound emissions from the forty Detroit Diesel Model 6063-GK 60 internal combustion engines (E1-40) shall be controlled by proper engine maintenance practices. Any change to the combustion control processes associated with the forty Detroit Diesel Model 6063-GK 60 internal combustion engines may require a permit to modify and operate. (9 VAC 5-80-110 and Condition No. 7 of the minor NSR permit dated 12/4/2013)."
43. Condition 7 of Permit 2 states, "Fuel Burning Equipment Requirements – Limitations – Particulate Matter and Volatile Organic Compounds emissions from the 40 diesel engines (E1-E40) shall be controlled by proper engine maintenance practices. The engines shall be repaired and maintained to prevent excess emissions of particulate matter (in the form of PM and PM-10) and Volatile Organic Compounds. (9 VAC 5-80-110, and Condition No. 8 of the minor NSR permit dated 12/4/2013)."
44. Condition 14 of Permit 2 states, "Fuel Burning Equipment - Federal Requirements – The 40 diesel engines (E1-E40) are subject to MACT Subpart ZZZZ - Stationary Reciprocating Internal Combustion Engines. The requirements are as follows:

<b>Citation</b>	<b>Requirement</b>
40 CFR 63.6603	Emission limitations, operating limitations, and other requirements.
40 CFR 63.6655	Record-keeping requirements
40 CFR 63.6660	

(9 VAC 5-80-110 and 40CFR63 Subpart ZZZZ)."
45. Condition 17 of Permit 2 states, "Fuel Burning Equipment Requirements – Monitoring - The oxidation catalyst shall be equipped with devices to continuously measure the differential pressure drop across each oxidation catalyst. Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations. Each monitoring device shall be provided with adequate access for inspection and shall be in operation when the control devices are operating. (9 VAC 5-80-110)."
46. INGENCO had incomplete or missing operational records for multiple operating days from June 2016 through June 2018. Observations are identified by the corresponding permit requirement associated with Permit Condition 24 provided below. Additional citations to applicable Permit requirements follow.
  - b. Facility measures pressure of storage tanks at the beginning and end of each day to calculate the amount of fuel used. Reviewed available daily records of fuel pressure

readings from June 2016 - June 2018. These records were incomplete or missing data for 34 days. See Records Review Spreadsheet in Appendix B.

- c. Reviewed available daily and electronic logs of hourly inlet charge-air temperature records available from June 2016 through June 2018 and no data exceeded the temperature limit of 150 °F. However, the records were incomplete as the dates of operation were inconsistent or missing for 28 days. See Records Review Spreadsheet in Appendix B.
  - e. Reviewed emission records from June 2016 through June 2018. Emission records available for review for August and December 2016 stated that Rockville consumed no fuel while other operational records indicated that it operated (August 12, and December 1, 2016). See Records Review Spreadsheet in Appendix B.
  - f. Reviewed available catalyst bed differential pressure records from June 2016 through June 2018. These records were either missing or missing data for 39 days. See Records Review Spreadsheet in Appendix B.
  - g. Reviewed available catalyst bed temperature records from June 2016 through June 2018. These records were either missing or missing data for 37 days. See Records Review Spreadsheet in Appendix B.
  - h. Reviewed available visible emission evaluations records from June 2016 through June 2018. Monthly visible emissions evaluations are kept as part of the daily log. However, the records were incorrect, missing, missing data and/or follow-up actions for 37 days. See Records Review Spreadsheet in Appendix B.
  - k. INGENCO did not make available sufficient documentation of scheduled and unscheduled maintenance from July 2016 through June 2018. INGENCO provided employee pay records for the days that maintenance was purportedly performed. However, pay records do not describe in detail what maintenance was performed nor demonstrate that the maintenance was performed.
  - l. INGENCO did not make available sufficient documentation of operating procedures and operator training.
47. Condition 24 of Permit 2 states, “24. Fuel Burning Equipment Requirements – Recordkeeping - The permittee shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Piedmont Region. These records shall include, but are not limited to:...
- b. Daily records of fuel consumption for every period of operation to verify compliance with Condition numbers 3, 9 and 10;
  - c. Hourly records of engine inlet charge-air temperature readings to verify compliance with Condition 5....
  - e. Monthly and annual emission (in tons) using calculation methods approved by the Piedmont Regional Office to verify compliance with emission limitations in Condition numbers 12 and 33. Annual emissions shall be calculated monthly as the sum of each consecutive 12-month period;
  - f. Log of observations or records of measurements from the pressure drop monitoring device on each catalysts.
  - g. Operation and control device monitoring records for each engine group equipped with an oxidation catalyst (Ref. Nos. E1-E40). This includes records of the catalyst



bed temperatures.

- h. Results of all stack tests, visible emissions evaluations, monthly visible emission evaluations, log and performance evaluations;...
- k. Scheduled and unscheduled maintenance on the engines;
- l. Operating procedures and operator training records for the engines;  
These records shall be available for inspection by the DEQ and shall be current for the most recent five years."

48. Condition 12 of Permit 2 states, "Fuel Burning Equipment Requirements – Limitations - Emissions from the operation of any of the 40 diesel engines (E1-E40) when the facility is operated shall not exceed the limits specified below:

<b>Particulate Matter:</b>	0.1 lb/MMBtu
PM-10:	0.1 lb/MMBtu
PM-2.5 :	0.1 lb/MMBtu
Sulfur Dioxide:	0.5 lb/MMBtu
Nitrogen Dioxide:	2.3 lb/MMBtu
Carbon Monoxide:	0.25 lb/MMBtu
Volatile Organic Compounds:	0.1 lb/MMBtu

Compliance with the lb/MMBtu limits for PM, PM-10, NO<sub>x</sub>, CO and VOC shall be determined by stack testing. All other emission limits are derived from the estimated overall emission contribution from operating limits. Exceedance of the operating limits shall be considered credible evidence of the exceedance of emission limits. Compliance with these emission limits may be determined as stated in Condition numbers 1 through 5, 7, 9 and 10. (9 VAC 5-80-110 and Condition No. 17 of the minor NSR permit dated 12/4/2013)."

49. Condition 14 of Permit 2 states, "Fuel Burning Equipment - Federal Requirements – The 40 diesel engines (E1-E40) are subject to MACT Subpart ZZZZ - Stationary Reciprocating Internal Combustion Engines. The requirements are as follows:... 40CFR63.6650 - Reporting requirements; 40CFR63.6655 and 63.6660 - Recordkeeping requirements (9 VAC 5-80-110 and 40CFR63 Subpart ZZZZ)."

50. Condition 18 of Permit 2 states, "Fuel Burning Equipment Requirements – Monitoring - The oxidation catalyst shall be equipped with devices to continuously measure and record the inlet temperature to the catalyst bed at a minimum frequency of once every fifteen minutes during the operation of each engine group. As approved by the Director, Piedmont Regional Office, compliance with this requirement may be achieved by continuously measuring and recording the engine exhaust temperature at the minimum frequency described above and, as confirmation, measuring and recording the inlet temperature to the catalyst bed once per shift. The information shall be correlated to run date, engine load/kilowatt output, and engine operating hours. Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations. Each monitoring device shall be provided with adequate access for

inspection and shall be in operation when the oxidation catalysts are operating. (9 VAC 5-80-110).”

51. Condition 20 of Permit 2 states, “Fuel Burning Equipment Requirements – Monitoring – The monitoring devices used to measure distillate oil, biodiesel and Number 4 fuel oil consumption shall be observed by the permittee after each period of continuous operation when using any form of liquid fuel and then again once the engines have ceased operation. The permittee shall keep a daily log of the observations from each of the monitoring devices, to include each set of readings that define each period of operations. (9VAC 5-80-110 and Condition No. 11 of the minor NSR permit dated 12/4/2013).”
52. Condition 21 of Permit 2 states, “Fuel Burning Equipment Requirements – Monitoring – The monitoring devices used to measure the catalysts shall be observed by the permittee with a frequency of not less than once per shift. The permittee shall keep a log of the observations including the time the observation was recorded, or continuously record measurements from each of the control monitoring devices. (9 VAC 5-80-110).”
53. Condition 22 of Permit 2 states, “Fuel Burning Equipment Requirements – Monitoring - The monitoring devices used to measure inlet charge-air temperature shall be observed by the permittee with a frequency of not less than hourly whenever the engines are operating. The permittee shall keep a log of the temperature observations from the monitoring devices including the time the observation was recorded. (9 VAC 5-80-110 and Condition No. 12 of the minor NSR permit dated 12/4/2013).”
54. Condition 23 of Permit 2 states, “Fuel Burning Equipment Requirements – Monitoring - Once per month, the facility shall conduct an observation of the presence of visible emissions from the operating 40 internal combustion engines. If visible emissions are observed, the facility shall take timely corrective action such that the units resume operation with no visible emissions, or perform a visible emissions evaluation (VEE) in accordance with 40 CFR 60, Appendix A, Method 9 to assure visible emissions from any of the 40 internal combustion engines does not exceed 10% opacity whenever the engines are operated in a single fuel mode, except during one six-minute period in any one hour in which visible emissions shall not exceed 20% opacity and visible emissions from the 40 dual-fuel diesel engines stacks (S1-S8) shall not exceed 20% opacity whenever the engines are operated in a dual fuel mode except during one six-minute period in any one hour in which visible emissions shall not exceed 30.0% opacity. The VEE shall be conducted for a minimum of six minutes. If any of the observation exceeds 10% opacity, the VEE shall be conducted for sixty minutes. ... (9 VAC 5-80-110).”
55. Condition 33 of Permit 2 states, “Facility Wide Conditions – Limitations - Total emissions from the facility shall not exceed the limits specified below, calculated monthly as the sum of each consecutive 12 month period:

**Particulate Matter**

13.0 lbs/hr

11.0 tons/yr

PM-10					
13.0	lbs/hr	11.0	tons/yr		
PM-2.5					
13.0	lbs/hr	11.0	tons/yr		
Sulfur Dioxide					
65.0	lbs/hr	22.0	tons/yr		
Nitrogen Dioxide					
295.0	lbs/hr	240.0	tons/yr		
Carbon Monoxide					
32.0	lbs/hr	27.0	tons/yr		
Volatile Organic Compounds					
13.0	lbs/hr	11.0	tons/yr		
Polychlorinated biphenyls (Aroclors)					
0.4	lbs/hr	0.3	tons/yr		
Lead					
0.2	lbs/hr	0.2	tons/yr		

Compliance with the lb/hr limits may be determined by additional stack testing or other appropriate means upon request of the Department. All other emissions limits are derived from the estimated overall emission contribution from operating limits. Exceedance of the operating limits shall be considered credible evidence of the exceedance of emission limits. Compliance with these emission limits may be determined as stated in Condition numbers 1 through 5, 7, 9 and 10. (9 VAC 5-80-110 and Condition No. 18 of the minor NSR permit dated 12/4/2013)."

56. Condition 45 of Permit 2 states, "General Conditions - Recordkeeping and Reporting - Records of all monitoring data and support information shall be retained for at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. (9 VAC 5-80-110 F)."

57. DEQ staff observed the following opacity from the operating stacks:

<u>Stack ID</u>	<u>6:29-6:35</u> <u>am</u>	<u>7:06-7:12</u> <u>am</u>	<u>7:12-7:15</u> <u>am</u>	<u>7:15-7:20</u> <u>am</u>	<u>7:39-7:45</u> <u>am</u>
A	10%	10%	5%	5%	5%
B	10%	10%	10%	5%	5%



C	20%	20%	10%	15%	10%
D	10%	5%	5%	5%	5%
E	10%	5%	5%	5%	5%
F	20%	20%	15%	15%	10%

Note: The Facility began shutting down the engines towards the end of the inspection, preventing a complete Method 9 evaluation from being performed. Facility staff stated that there were maintenance issues (malfunctioning/damaged fuel injectors and valves) with engines associated with stacks C and F.

58. Condition 13 of Permit 2 states, “Fuel Burning Equipment Requirements – Limitations - Visible emissions from the forty Detroit Diesel Model 6063-GK 60 internal combustion engines (E1-40) stacks shall not exceed 10.0% opacity as determined by EPA Method 9 (reference 40 CFR Part 60, Appendix A). This condition applies at all times except during startup, shutdown, and malfunction. (9 VAC 5-80-110 and Condition No. 19 of the minor NSR permit dated 12/4/2013).”

59. INGENCO submitted documents on July 23, 2018 for the most recent 5-year tune-up. These documents did not include sufficient data collection to demonstrate continuous compliance with MACT Subpart JJJJJ.

60. Condition 15 of Permit 2 states, “Fuel Burning Equipment - Federal Requirements – The utility boiler (B1) is subject to MACT Subpart JJJJJ - Industrial, Commercial, and Industrial Boiler Area Sources. The requirements are as follows:

<b>Citation</b>	<b>Requirement</b>
40CFR63.11220-40CFR63.11226	Continuous compliance requirements (9 VAC 5-80-110 and 40CFR63 Subpart JJJJJ)”

61. INGENCO reported continuous compliance for all conditions on the August 18, 2016, February 15, 2017, August 18, 2017, and February 15, 2018 SAMRs. INGENCO also reported continuous compliance for all conditions on both the 2016 and 2017 ACCs. Violations were noted during the records review for each of the referenced reporting time periods.

62. Condition 46 of Permit 2 states, “General Conditions - Recordkeeping and Reporting - The permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than March 1st and September 1st of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:

...

b. All deviations from permit requirements. For purpose of this permit, deviations include, but are not limited to:

- i. Exceedance of emissions limitations or operational restrictions;
- ii. Excursions from control device operating parameter requirements, as documented by continuous emission monitoring, periodic monitoring, or

Compliance Assurance Monitoring (CAM) which indicates an exceedance of emission limitations or operational restrictions; or,  
iii. Failure to meet monitoring, recordkeeping, or reporting requirements contained in this permit ... (9 VAC 5-80-110 F).”

63. Condition 47 of Permit 2 states, “General Conditions - Annual Compliance Certification - Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to EPA and DEQ no later than March 1 each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices for the period ending December 31. The compliance certification shall comply with such additional requirements that may be specified pursuant to §114(a)(3) and §504(b) of the federal Clean Air Act. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include: ...
- b. The identification of each term or condition of the permit that is the basis of the certification;
  - c. The compliance status;
  - d. Whether compliance was continuous or intermittent, and if not continuous, documentation of each incident of non-compliance;
  - e. Consistent with subsection 9 VAC 5-80-110 E, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period;
  - f. Such other facts as the permit may require to determine the compliance status of the source; and ... (9 VAC 5-80-110 K.5).”
64. INGENCO constructed and operated an additional Burnam 109,000 BTU per hour boiler without including it on its October 11, 2013 Title V permit application to DEQ.
65. 9VAC5-80-50, in Part II - Applicability, Article 1 - Federal Operating Permits for Stationary Sources, states, “Except as provided in subsection C of this section, the provisions of this article apply to the following stationary sources:
- 1. Any major source.
  - 2. Any source, including an area source, subject to a standard, limitation, or other requirement under § 111 of the federal Clean Air Act.”
66. INGENCO reported continuous compliance for all conditions on the August 8, 2018 SAMR for the first half of 2018. Violations were noted during the FCE and records review for this reporting time period. This is a violation of Permit 2 condition 46, which is listed in paragraph 63.
67. On August 23, 2018, DEQ issued Notice of Violation No. APRO000975-001 to INGENCO for the violations noted in paragraphs C.41. through C.66.
68. On August 28, 2018, DEQ staff reviewed the MACT Subpart ZZZZ first half 2018 semi-annual report which noted that the engines were operated minimally during the reporting

period. During the June 6, 2018 FCE, Facility staff stated that there were maintenance issues (malfunctioning and/or damage fuel injectors and valves) with the engines associated with stacks C and F, and did not provide maintenance records applicable to the engines.

69. Condition 41 of Permit 2 requires compliance with 40 CFR 60.6650, which requires that all malfunctions and deviations be reported in the applicable MACT semi-annual report, and with 40CFR63.6655(a)(4), which requires that records of all required maintenance performed on the engines be kept and made available for inspection.

70. On October 25, 2018, DEQ staff met with representatives of INGENCO to discuss the violations noted for the Rockville facility (see paragraphs C.41. through C.70) and any corrective actions they have implemented or planned to implement. During this meeting, and in the weeks immediately thereafter, INGENCO submitted additional compliance documentation to address certain violations noted above.

71. On January 28, 2019, DEQ staff completed their review of the additional compliance documentation (paragraph 70) submitted by INGENCO. Some updated observations are included in paragraph 46 above while the rest is provided below:

1. As violations were confirmed with Conditions 4, 5 & 7; INGENCO is in violation of the emission limits in Permit 2 conditions 12 and 33 (see paragraphs C.48 and C.55).
2. INGENCO did not maintain all the records required to confirm compliance with Permit 2 conditions 24 (multiple paragraphs in Section C) and 45 (paragraph C.56).

72. On February 19, 2019, DEQ staff performed an on-site inspection during performance testing of the engines. DEQ staff noted the following during the on-site inspection:

1. Differential pressure gauges for the catalyst consisted of tubes hanging from the catalyst with red liquid inside them. The tubes were not fastened securely and when INGENCO staff attempted to measure the fluid level difference, the tubes disconnected from the catalyst. On March 15, 2019, INGENCO reported that it had installed new differential pressure gauges (Condition 17).

On this same date, DEQ staff also completed its review of compliance documentation submitted by INGENCO related to the utility boiler, identified as B1 (the undocumented utility boiler, identified as B2, was also included), and its compliance with MACT Subpart JJJJJ - Industrial, Commercial, and Industrial Boiler Area Sources. Below are staff observations as they relate to Permit 2:

2. The Carbon Monoxide concentration, before and after any adjustments were made during the boiler tune-up, was not provided (Condition 15 and 40 CFR 63.11223(b)(5)).
3. The Oxygen concentration in the effluent stream, before and after the boiler tune-up, was not provided (Condition 15 and 40 CFR 63.11223(b)(6)).

73. On June 4, 2019 DEQ staff met with representatives of INGENCO to discuss the violations noted above and any corrective actions implemented or planned.



74. Va. Code §10.1-1322 states that failure to meet conditions of a permit is considered a violation of the Virginia Air Pollution Control Law.
75. 9VAC5-80-260 and 9VAC5-80-1210(I) require compliance with all terms and conditions of Title V operating permits and permits for stationary sources respectively.
76. Based on the results of the above mentioned PCEs, FCE's, meetings and submitted documentation, the Board concludes that INGENCO has violated conditions 17, 18, 19, 20, 21, ~~22, 24, 29, 37 and 47~~, 48, 49, ~~50 and 62 of Permit 1~~, conditions 4, 7, 12, 13, 14, 15, 17, 18, 20, ~~21, 22, 23, 24, 33, 45, 46 and 47 of Permit 2~~, Va. Code § 10.1-1322 and 9VAC5-80-260 and -1210 of the Virginia Air Pollution Control Law and Regulations as described above.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders INGENCO, and INGENCO agrees, to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$132,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

INGENCO shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, INGENCO shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of INGENCO for good cause shown by INGENCO, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, INGENCO admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact, and conclusions of law in this Order.
4. INGENCO consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. INGENCO declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by INGENCO to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. INGENCO does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. INGENCO shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. INGENCO shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. INGENCO shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and INGENCO. Nevertheless, INGENCO agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after INGENCO has completed all of the requirements of the Order;
  - b. INGENCO petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to INGENCO.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve INGENCO from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.


- 12. Any plans, reports, schedules or specifications attached hereto or submitted by INGENCO and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of INGENCO certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind INGENCO to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of INGENCO.




14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, INGenco voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 16 day of March, 2020.

  
James J. Golden, Regional Director  
Department of Environmental Quality

INGENCO Wholesale Power, LLC voluntarily agrees to the issuance of this Order.

Date: 3/9/2020 By: , James Goodwin  
(Person) (Title)  
INGENCO Wholesale Power, LLC.

STATE OF CONNECTICUT  
~~Commonwealth of Virginia~~

City/County of FAIRFIELD

The foregoing document was signed and acknowledged before me this 9<sup>th</sup> day of MARCH, 2020, by JAMES GOODWIN, who is DIRECTOR of INGENCO Wholesale Power, LLC., on behalf of the corporation.

  
\_\_\_\_\_  
Notary Public

TARA L. LISCOMBE  
NOTARY PUBLIC  
STATE OF CONNECTICUT  
My Commission Expires July 31, 2022

Registration No. \_\_\_\_\_

My commission expires: 7/31/2022

Notary seal:

## **APPENDIX A SCHEDULE OF COMPLIANCE**

By April 30, 2020, INGENCO agrees to perform the following:

1. Submit new procedures for collecting and maintaining all compliance information and records for Dinwiddie and Rockville
2. Submit a revised permit application for Rockville which includes the second Boiler subject to MACT Subpart JJJJJ.
3. Install new differential pressure gauges on the catalyst bed capable of accurately measuring the operational pressure changes.
4. Install new fuel usage volume measuring devices that measure by the gallon of consumption and alert staff to usage.

By July 31, 2020, submit a copy of all records required to be maintained for compliance with Permit 1 and Permit 2 for the months of January through June 2020.

### **DEQ Contact**

Unless otherwise specified in this Order, INGENCO shall submit all requirements of Appendix A of this Order to:

David Robinett  
Air Compliance Manager  
VA DEQ – Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060  
804-527-5128  
804-527-5106 (fax)  
[david.robinett@deq.virginia.gov](mailto:david.robinett@deq.virginia.gov)